IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.954 OF 2004

Murlidhar G. Patil through
LR Vijay Murlidhar Patil .. Appellant

Versus

Shridhar Anantrao Patil & Ors. .. Respondents

Mr.I.M.Khairdi for appellant
Mr.S.P.Kadam for respnodents

CORAM : P.V.KAKADE, J.
DATE : 27TH JUNE, 2005.

P.C.:

1. The appellant has preferred this appeal against the judgment and order passed by Addl. District Judge, Solapur dismissing the appeal and confirming the judgment and order passed by Civil Judge, Junior Division, Barshi decreeing the suit for recovery of the amount of Rs.3140/= with interest thereon by order dated 11.8.1999.

2. I have heard the learned counsel for both the parties. Perused the record.

3. The suit was filed for the recovery of sum of Rs.3140/= with interest thereon towards the price of neem tree standing in the suit land. The case of the plaintiff is that he and defendants are brothers and he and defendant-Murlidhar sold their common neem tree for Rs.4000/= and distributed the amount of sale amongst them to the extent of 1/2 share. The defendant demanded hand loan to plaintiff for his domestic purpose. The plaintiff gave amount of Rs.2000/= of his share in neem tree to the defendant and the defendant assured to return the amount on a particular day and for that purpose the defendant executed "Usanwar Pavati" in his own hand writing in favour of the plaintiff. The defendant did not repay the amount of Rs.2000/= as agreed and hence the suit came to be filed.

4. Both the courts below have come to the conclusion that the plaintiff has proved the fact that there was common neem tree standing in the suit land and it was sold for Rs.4000/= and each party was entitled to

1/2 share therein. It was further held to prove that the plaintiff had given hand loan of Rs.2000/= to the defendant, for which purpose the defendant executed hand loan receipt of Rs.2000/= and agreeing to pay amount of Rs.2000/= on certain day, failing which he was liable for to pay the said amount along with interest. In the course of the evidence, at the time of admission of the documents, it appears from the record, that defendant did not raise any objection for production of the suit document i.e. receipt in question, and thereafter it was argued that the receipt in question was not the receipt but a bond contemplated under Sec.2(c)(i) of the Bombay Stamp Act and therefore, it was not admissible for want of proper court fee stamp. However, both the courts below have discussed the relevant aspect of the legal provision and concluded that it was not a bond but a receipt simplicitor and therefore, objection raised by the defendant was overruled and the suit came to be decreed. Both the courts below have recorded concurrent findings to the effect that the appellant is liable to pay the impugned amount. In my view there is no substantial question of law involved and therefore, the appeal deserves to be dismissed and accordingly stands dismissed.

. Consequently the civil application no.1120 of 2004 also stands dismissed with no order as to costs.